STATEMENT OF

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BEFORE THE

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SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

HEARING ON

BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: RAIL STAKEHOLDERS' PERSPECTIVES

WEDNESDAY, OCTOBER 4, 2017

Good afternoon, Mr. Chairman, Ranking Member and distinguished Members of the Subcommittee. Thank you for this opportunity to testify and provide this subcommittee with our suggestions on investment in infrastructure from the rail stakeholder perspective. My name is Tom DeJoseph, and I am Senior Advisor, Industry Relations at Loram Maintenance of Way and the Honorary Chairman of the Railway Supply Institute (RSI). It is a privilege to appear before you today on behalf of RSI's 260-plus members.

RSI is an international trade association representing more than 260 companies involved in the manufacture of products and services in the freight rail car, tank car, locomotive, maintenance-of-way, communications and signaling, and passenger rail industries. RSI connects members to their customers and partners, supports the improvement of the industry, assists members in the global marketplace, and represents the industry during the regulatory and legislative process. Our members represent more than 756 rail supply locations in 44 states and in 281 congressional districts. Collectively, railroad suppliers contribute over $28.2 billion annually to developing rail capital across the United States. Our members are predominately small, main street manufacturers in places where the employment opportunities and economic contributions they provide truly matter to their communities. Over 75 percent of our members have annual rail-related revenues of under $11 million and fewer than 50 employees, and they often are crucial suppliers to RSI's larger members. The rail supply industry's impact on the rail industry is clear, and our economic impact on the communities in which our suppliers manufacture their products is vitally important.

RSI members seek dedicated investment in infrastructure, sensible tax reform and balanced economic regulation, as well as increased support and promotion of domestic manufacturing and American innovation. We are encouraged by the interest shown by the Administration and the Congress to bring America's transportation systems into the 21st century. We are also pleased with the Administration's effort to scrutinize existing and proposed regulations to ensure they do not unduly burden industry and economic growth. We welcome the opportunity to work with our local, state and federal governments to enhance and promote investment in rail infrastructure, and to continue to grow America's economy while creating and sustaining jobs.

Congress has an important role to play in shaping well-crafted multi-modal federal infrastructure investment and in advancing the rail industry. Investing in rail will bolster industry competitiveness, promote job creation, improve our nation's mobility, and have a profound long-term economic impact on the rail supply industry.

To ensure that the rail sector can continue to provide good employment opportunities to American workers, RSI strongly supports an infrastructure package that improves the safety, reliability and productivity of the nation's overall transportation system. New investment in our transportation systems would vastly improve the efficiency and productivity of our rail systems. Public investment in rail along with private investment could relieve major bottlenecks and chokepoints that will increase track, tunnel, bridge, and station capacity across the passenger and freight rail system. It is high time for the federal government to provide predictable, dedicated, and meaningful funding for capital investment in our intercity passenger rail system, along with investment to improve the efficient movement of freight through public-private partnerships. Digital infrastructure applications should be included and incentivized as part of eligible public investments to provide better reliability and lengthen the life of an asset. Furthermore, continued investment in rail safety - through ensuring ongoing research and development investment in rail technology, providing funding for the Section 130 highway-rail grade crossing safety program and the national rail safety education nonprofit group Operation Lifesaver - is a proven way to save lives, and should be supported.

As suppliers, we are in a unique position to focus on both passenger and freight rail. So, in addition to streamlining regulations that benefit the Short Lines and Class Is, the infrastructure package must include provisions that encourage infrastructure investment in the United States. There are several areas of new investment that would vastly improve the efficiency and productivity of our rail systems. As you know, Congress authorized several rail grant programs under the FAST Act and we urge your support in funding those. The Federal State Partnership for State of Good Repair and the Consolidated Rail Infrastructure Safety and Improvement Grant Programs should be funded at a level commensurate with the need out there - and as we all know; the need is much greater than the authorized levels.

The FAST act also included substantive and procedural changes to the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation & Improvement Financing (RRIF) Programs and we commend you for that. As you know, RRIF funding may be used to:

- Acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings and shops;
- Refinance outstanding debt incurred for the purposes listed above; and
- Develop or establish new intermodal or railroad facilities.

Within the FAST Act, RRIF was placed into the Build American Bureau and provisions were added to mirror TIFIA. RSI was pleased with this change, however from an outside perspective, because we don't apply for these loans, we note that the individuals who are analyzing these applications must ensure that RRIF is truly on the same playing field with TIFIA and receives the same priority. If done correctly, this should lead to quicker approval or denial decisions.

There are also provisions that could help keep that money in the United States and spur more U.S. jobs. The Buy America program was designed to promote U.S. manufacturing and encourage new industry to help the domestic economy and create jobs for Americans. RSI member companies have played by the rules and built their business models to comply with Buy America. Unfortunately, we have found that the Buy America provisions in law have sometimes been relaxed in enforcement. The U.S. Department of Transportation should apply Buy America provisions strictly, consistently and enforce the statute accordingly. There needs to be clear rules and enforcement of the program. I understand that this is a sticky subject, but our suggestion is not to change the law, but to ensure that the current laws are being enforced. Simply put, we need to make sure that cheaters are not allowed to cheat, because most American suppliers' business models have been shaped to comply with the current law. To be blunt, if you provide funding for rail infrastructure, it is critical to include provisions that will ensure American manufacturers have a fair chance.

I'd also like to point out that there has been an increase in state-owned foreign involvement in the U.S. passenger and freight rail market. This has the potential to change the entire dynamic of a multi-billion-dollar industry. Current American rail supply manufacturers are concerned that more state-owned enterprise involvement could lead to price dumping and a reduction in American jobs. This also has long-term national security impacts as demonstrated in Australia with the complete take-over by a state-owned enterprise of the Australian domestic market in just eight years, as well as the capability to build freight rail cars. America's rail system is the finest in the world; it covers more than 140,000 miles and carries forty percent of America's intercity freight, including 111 million tons of hazardous materials. Allowing a foreign, state-backed entity to increase direct investment in our nation's critical infrastructure without appropriate review creates significant economic and national security concerns. Similar mergers involving state-owned companies have threatened other critical sectors of our economy beyond rail, such as public transit, steel fabrication, energy production, food manufacturing, real estate and more. The presence of heavily subsidized state-owned rail firms will undermine competition and impact jobs by private rail supply companies, both U.S.-based and foreign.

RSI also believes that federal tax incentives for investments in new track, bridges, and tunnels, as well as investments in federally-mandated positive train control systems can help advance rail as part of a balanced approach to transportation policy. To help bridge the funding gap between private investment, Congress should enact legislation that provides tax incentives for projects such as the 45G tax credit that expands freight rail capacity and help short line railroads remain competitive.

With respect to rolling stock, one of the most important economic tracking activities that RSI undertakes is the quarterly reporting of new freight rail car order and delivery statistics, a service we have provided for the industry since the 1930s. Freight rail car orders are often a leading economic indicator. As an example, our reports forecast the surge in movement of ethanol by rail in the mid-2000s by the increase in orders of tank cars for ethanol and covered hopper cars for the residue created by ethanol production. Similarly, our reports also forecast the increase in crude oil production in the early 2010s, by noting the increase in tank car and covered hopper orders. Too often, however, as the economy slows, so do new freight rail car orders. This poses several problems for the manufacturers of new freight rail cars, who often respond to a decrease in demand for rail cars by shutting lines and furloughing employees. Once the remand returns, manufacturers must struggle to hire and train employees and stock component parts. RSI has been tracking this trend since the early 1990s.

It is important that Congress and the Administration continue to enact legislation and promulgate fair and balanced regulations that recognize the benefits of moving freight by rail, and not punish rail by enacting poorly thought out public policy. While not directly related to infrastructure funding, this approach to policy strengthens the ability of our nation's railroads to continue to invest in capital expenditures, is beneficial to our nation's economy, may help smooth out the dramatic rise and fall of freight rail car orders as demonstrated by our reporting statistics, and allow our members to plan a more orderly manufacturing schedule.

Finally, I'd like to address one regulation with which RSI was intimately involved through its Committee on Tank Cars: HM-251, the Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains. The RSI Committee on Tank Cars comprises six companies that build virtually all tank cars operating in North America and that own and provide for lease almost 70 percent of railroad tank cars. The members of the committee are committed to meeting the FAST Act deadlines pertaining to HM-251 and will do so. Based on statistics provided by the Association of American Railroads, as of the second quarter of 2017 there has been over a 99 percent reduction in the number of DOT-111 tank cars making at least one shipment of petroleum crude oil from 2013 until the second quarter of 2017. Furthermore, based on the compliance dates in the FAST Act passed by Congress in 2015, there were only 60 non-jacketed DOT 111s in crude oil service as of the second quarter that needed to be modified to be HM 251 compliant by the first deadline – January 1, 2018. In addition, there were only 96 jacketed DOT 111 tank cars in crude oil service in the second quarter that needed to be modified to be HM 251 compliant by the next compliance date – March 1, 2018. There is ample shop capacity to complete these modifications by the deadline.

Thank you again for this opportunity to testify on behalf of the Railway Supply Institute. We look forward to working with this subcommittee to help establish more balance in the nation's transportation system and address the critical needs of the freight and passenger railroad industry and its suppliers.